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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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)
Application by Verizon New Jersey, Inc. et al.,
)
Pursuant to Section 271 of
)
the Telecommunications Act of 1996
)
to Provide In-Region, InterLATA Services
)
In New Jersey)

WC Docket No. 02-67 /

To: The Commission

COMMENTS OF
METRO TELECONNECT COMPANIES, INC.

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April 8, 2002

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Executive Summary

Verizon has failed to demonstrate that it has fully complied with the 14-point “Competitive Checklist,” particularly with respect to billing. Accordingly, the Commission should deny Verizon’s Section 271 application to provide in-region interLATA services in New Jersey.

Contrary to its declarations, Verizon’s billing performance fails to satisfy Item 2 of the Competitive Checklist. Verizon’s billing performance data reveals substandard performance and skewed results based on the exclusion of post-completion discrepancies (“PCDs”). Other areas of critical concerns to resellers, including dispute acknowledgement and resolution, are not even addressed.

Disputed charges are lingering for months – in some cases, years – without resolution because Verizon seemingly will not devote sufficient resources to resolve disputes and because it has refused to engage in meaningful negotiations. Further, while Verizon states it has resolved some billing concerns, it is creating new ones. A recently adopted billing policy aimed at resellers and prepaid providers demonstrates both Verizon’s continuing monopoly power and its willingness to exercise that power anti-competitively. Until these issues are resolved, a grant of Section 271 authority is premature.

Table of Contents

Executive Summary i

I. Background and Introduction 1

II. *Checklist Item 2:*
Verizon’s application glosses over serious billing problems..... 3

 A. Elements of Verizon’s reported billing performance are
 substandard and its performance in other key areas is not
 even measured 3

 B. Verizon is creating new areas of billing concern for resellers 5

Conclusion 7

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**COMMENTS OF
METRO TELECONNECT COMPANIES, INC.**

Metro Teleconnect Companies, Inc. ("Metro Teleconnect") hereby files these comments on the above-captioned application of Verizon New Jersey et al. ("Verizon") to provide in-region, interLATA services in the State of New Jersey. As discussed below, Verizon has failed to demonstrate both that it has fully complied with the fourteen-point "Competitive Checklist."¹ Accordingly, the Commission should deny the application.

I. Background and Introduction

Metro Teleconnect is a competitive local exchange carrier, based in Harrisburg, Pennsylvania, that resells local telecommunications services to consumers in New Jersey and throughout the Verizon service territory.

Metro Teleconnect's core customers are those that historically have been considered high-risk – due, for example, to a poor credit history or lack of sufficient identification – and thus unable to obtain local telephone service from incumbent carriers. For these consumers, prepaid

local service may offer the only viable option for obtaining local telephone service, including access to 911 emergency services. In order to provide its services, Metro Teleconnect resells the flat-rate, local telephone services and custom calling features offered by Verizon.

The Commission has recognized that resale is an important entry strategy.² Although the Commission has begun de-emphasizing resale as a competitive entry strategy, it remains key to competition in the residential market and is expected to remain so for some time. To ensure the continuing viability of resale as both an entry strategy and a competitive alternative, it is critical that the Commission in this proceeding respond to the concerns of resellers, including Metro Teleconnect. Ultimately, a Commission response that acknowledges and requires the correction of competitive disparities prior to the grant of Verizon's requested authority will promote competition and other public interest goals not only in New Jersey, but in those states in which Verizon has yet to obtain authority to provide in-region, interLATA services.

As explained below, the Commission should deny Verizon authority to provide in-region, interLATA services in New Jersey until such time as Verizon fully complies with its resale and operations support system ("OSS") obligations under the Telecommunications Act of 1996 ("1996 Act"), particularly as those obligations pertain to resale billing.

¹ See 47 U.S.C. § 271(d)(3)(A), (C).

² See First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, 15954 (Aug. 8, 1996) ("[I]n some areas and for some new entrants, we expect that the resale option will remain an important entry strategy over the longer term. Resale will also be an important entry strategy for small businesses that may lack capital to compete in the local exchange market by purchasing

II. Checklist Item 2: Verizon's application glosses over serious resale billing problems

A. Elements of Verizon's reported billing performance are substandard and its performance in other key areas is not even measured

To satisfy Item 2 of the Competitive Checklist, Verizon must demonstrate that it is providing non-discriminatory access to specific network elements in accordance with the requirements of Sections 251(c)(2) and 252(d)(1).³ Requisite network elements include OSS, one aspect of which is the incumbent's billing systems.

Verizon's OSS Declaration refers to the eight separate performance measurements associated with billing and states that "Verizon NJ's billing performance has been strong in each of these areas." Verizon OSS Declaration at ¶ 145.⁴ Closer scrutiny reveals that the statement is not supported by the data. For example, in each of the three months reported for metric 6-0, Percent Completeness of Usage Charges, Verizon reports substandard performance; in no reported month did Verizon demonstrate a satisfactory performance. Four of the reported eight metrics exclude charges for post-completion discrepancies ("PCDs"), thereby skewing the results. And although timeliness is reported as "+" for each of the three months, the timeliness of those bills satisfies only the 10 business-day standard established in the performance metrics. See Verizon Measurements Declaration, Attachment 404, Checklist Item 1: UNE OSS, BI, p. 4.⁵

unbundled elements or by building their own networks.").

³ See 47 U.S.C. § 271(c)(2)(B)(ii).

⁴ See www.accessthefuture.net/vznj/271/OSS_Declaration/oss_declaration.htm

⁵ See www.accessthefuture.net/vznj/271. Metro Teleconnect supports a performance metric that would require the incumbent to deliver a wholesale bill to the CLEC within three days of the billing date. Such a benchmark would ensure that the CLEC has at least three working weeks, not two, in which to review the bill and attempt to resolve disputes prior to the

Despite Verizon's self-proclaimed "strong" billing performance, Metro Teleconnect finds that as much as 20 percent of the charges listed on each Verizon wholesale bill are incorrect, a situation that has been aggravated by the inconsistent application of the 32% initial promotional discount to which Verizon agreed as part of its merger conditions.⁶ Unfortunately, Verizon's billing practices and procedures deprive Metro Teleconnect of adequate time to scrutinize its bills and attempt to resolve billing disputes prior to payment deadlines.

Significantly, there are no performance metrics associated with the timeliness of dispute acknowledgment and dispute resolution, key areas of concern to resellers. As a result, Verizon fails to disclose the extraordinary difficulties that competitive carriers such as Metro Teleconnect continue to experience in their attempts to resolve billing disputes with Verizon in New Jersey and throughout Verizon territory. Disputed charges are lingering for months – in some cases, years – without resolution because Verizon seemingly will not devote sufficient resources to resolve disputes and because it has refused to engage in meaningful negotiations. Metro Teleconnect has experienced numerous instances in which disputes are submitted to Verizon, but Verizon fails to assign a claim number. In other cases, claims numbers are assigned, but the dispute is never resolved. A third category of problems involves disputes that were assigned a claim number and resolved in Metro Teleconnect's favor, but Verizon has yet to credit Metro Teleconnect accordingly. Metro Teleconnect's disputes with Verizon currently total almost \$3

payment deadline. *See, Performance Measurements and Standards for Unbundled Network Elements and Interconnection*, CC Docket No. 01-318, Comments of National ALEC Association/Prepaid Communications Association at 8-9 (January 22, 2002).

⁶ See March 15, 2002 letter of Cencilia T. Roudiez, attached hereto as Attachment A (acknowledging overcharges for local directory assistance calls).

million and increase almost daily.

The need for Metro Teleconnect to devote significant financial and employee resources to these issues seriously hampers its ability to compete against Verizon in the local exchange market. Ultimately, Verizon's billing practices, particularly its inability or refusal to resolve billing disputes, is anti-competitive behavior that risks the financial viability of its competitors.

B. Verizon is creating new areas of billing concern for resellers

Verizon states that it "has greatly reduced and, in some cases, virtually eliminated principal areas of earlier CLEC concern, including misapplied taxes, standalone accounts, IXC and Directory advertising charges," Verizon OSS Declaration at ¶ 140. Verizon, however, fails to note the remaining areas of concern that remain unresolved and the new concerns it has created, including the substantial charges it imposes upon resellers for blocking services. Indeed, Verizon has 20 different types of blocks in its Order Business Rules, Version 4.8.1 (LSOG 4) (Release Date February 2002).⁷

Verizon has recently instituted a policy requiring resellers, including Metro Teleconnect, to purchase certain blocks or face liability for casual calling, third-party, and collect charges incurred by their end-users. *See* Verizon Position on IntraLATA Calls, Collect and Third Number Calls (January 24, 2002).⁸ Verizon's new policy is a transparent attempt to impermissibly shift the risks and costs associated with these services from the provisioning carrier to Metro Teleconnect and other local service resellers. This policy strikes particularly

⁷ Available at http://128.11.40.241/east/business_rules/business_rules.htm

⁸ http://128.11.40.241/east/wholesale/resources/2002_industry_letters/clec/012402.htm

hard at Metro Teleconnect, which typically orders local lines in New Jersey with a “PIC NONE” or “LPIC NONE” designation.

Although it would require resellers to purchase a number of blocks, Verizon expressly disclaims responsibility for the effectiveness of the blocks it provides. For example, it admits its toll billing exception screening services will not block international operator-assisted calls, calls from operator service providers, or calls from interexchange carriers that have not “opted to participate” in Verizon’s screening process. It also admits that the database which processes the screen may be unavailable at times. Thus, to the extent Verizon is enforcing its new policy, it is requiring prepaid local service providers to pay it for both admittedly ineffective blocking services and all calls that slip through. No entity operating in a competitive marketplace would be able to establish a comparable policy that rewards itself for its inefficiencies and failings. Verizon’s attempts to impose this new policy demonstrate not only the monopoly power that Verizon continues to wield but that significant competitive concerns exist with respect to the manner in which it treats and bills its resellers.

Conclusion

The Commission should not authorize Verizon New Jersey, Inc. et al. to provide in-region interLATA services in New Jersey until such time as Verizon can fully demonstrate its compliance with all 14 items of the Competitive Checklist, particularly Item 2, as it pertains to billing. Therefore, based on the foregoing, Metro Teleconnect Companies, Inc. urges the Commission to deny Verizon's application for authority to provide in-region interLATA services in New Jersey.

Respectfully submitted,

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Its Attorneys

April 8, 2002

CERTIFICATE OF SERVICE

I, Sylvia Davis, a secretary with the law firm of Shaw Pittman L.L.P., hereby certify that on this, the 8th day of April 2002, I served a true copy of the foregoing **Comments of Metro Teleconnect Companies, Inc.** by hand delivery upon the following:

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
CY-B402
Washington, D.C. 20554

Janice Myles
Wireline Competition Bureau
Federal Communications Commission
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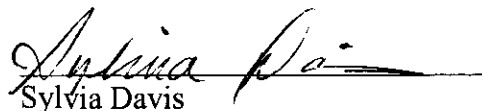
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and via first class mail, post age prepaid, to the following:

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ATTACHMENT A

Verizon's March 15, 2002 Letter

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March 15, 2002

**Via Mail and Facsimile
to 202-663 8007**

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Re: Metro Teleconnect Companies, Inc.

Dear Mr. Richards and Ms. Hafeli:

As follow up to my conversation with Mr. Richards the other day, I am providing you written confirmation of the results of our investigation. Since Metro Teleconnect maintains several thousand lines and has not identified any particular accounts beyond those attached to the earlier complaint, the review was conducted on a representative sampling of Metro Teleconnect's bills over the period in question.

This examination of prior bills issued to Metro Teleconnect indicates that Verizon Maryland has applied the proper wholesale and merger discount percentages to all qualifying elements billed, including directory assistance and national directory assistance. The underlying base rates for national directory assistance (NDA) were also found to be correct. It appears, however, that the base rates for local directory assistance (LDA) that were used to derive the effective rate billed for this service was in error and that this is the only error found in our investigation.

Specifically, we have determined that \$.95 was properly used as the pre-discount rate for NDA prior to the increase in that tariff rate to \$1.25, effective July 1, 2001. Since that time, the appropriate 19.87% wholesale discount, or the 32% merger discount rate where applicable, has been applied to the \$1.25 rate. We appreciate that you have alerted us to the fact that our website description had not been updated to reflect this tariff rate revision and have taken steps to correct this omission. Notwithstanding this inadvertent error, the correct base rate for NDA was \$1.25 pursuant to lawfully filed and publicly available tariffs. Therefore, the appropriate discount rates were correctly applied to a base rate of \$1.25 from July 2001 to date.

With respect to LDA on residential dial tone lines, the base rate used to calculate the billed rate was 36.4 cents per call. This resulted in an effective rate of approximately 29 cents per call on lines not subject to the merger discount and 25 cents per call on lines subject to the merger discount. As indicated in your letter of February 27, the correct base rate on lines not subject to the merger discount would have been 31.2 cents in order to yield an effective rate of 25 cents. The correct base rate on lines subject to the merger discount would have been 25 cents per call resulting in a discounted rate of 17 cents per call. Thus, the overage equates to 4 or 8 cents per call, with the higher amount applying to LDA calls subject to the merger discount.

Verizon has initiated system changes to include the correct base LDA rates in future billing. As you have noted, we had previously advised that the correction with respect to pre-merger lines was planned and we regret that it was not implemented due to oversight. We will therefore advise you of the date when the system changes should appear on your billing and ask that you notify us in the event that the correction is not reflected on any of Metro Teleconnect's accounts. We, too, will verify implementation of the system changes. Additionally, Verizon is prepared to provide a credit for the past overage on LDA charges.

As to your claim regarding call allowances, we have determined that our billing conformed to the resale pricing requirements ordered by the Maryland Public Service Commission. Our billing for LDA calls, other than with respect to the error in the base rates that I have described previously, complied with all applicable legal requirements. Indeed, the Maryland Commission has already expressly rejected Metro Teleconnect's request to revise the Commission's prior rulings relating to resale LDA, including the Commission's conclusion that there were no avoided costs with respect to this particular retail service. As you are also aware, in Maryland, the general resale discount for all carriers was established for resold services, excluding local directory assistance. Resale rates applicable to local directory assistance were addressed and established separately, and tariffs reflecting the applicable resale rates were filed by Verizon and approved by the Commission.

As I relayed to you, Julius Bradley, Verizon's Account Manager for Metro Teleconnect, as well as other Verizon representatives are fully prepared to meet with Metro Teleconnect representatives to review prior billing and explain the basis for our findings. They have had a number of meetings with Metro Teleconnect in the past to resolve a variety of concerns and questions raised by Metro Teleconnect. The concerns raised in these prior meetings reportedly did not include the promotional merger discount issue cited in your recent written communications, but Mr. Bradley and others would be happy to work with Metro Teleconnect as they have done in the past on other matters. We therefore trust that a direct dialogue will accomplish a mutually acceptable means for calculation and application of an appropriate LDA credit adjustment.

Sincerely,

A handwritten signature in black ink, reading "Cecelia T. Roudiez". The signature is written in a cursive, flowing style with a large, stylized "C" and "R".

Cecelia T. Roudiez

cc: Alex Starr
Chief, Market Disputes Resolution Division
FCC Enforcement Bureau.